SUPREME COURT OF THE UNITED STATES.

No. 744.—October Term, 1927.

James A. Reed, Charles L. McNary, William H. King, et al., Petitioners, *vs.* The County Commissioners of Delaware County, Pennsylvania, et al. } On Writ of Certiorari to the United States Circuit Court of Appeals for the Third Circuit.

[May 28, 1928.]

Mr. Justice Butler delivered the opinion of the Court.

The petitioners brought this suit in the United States court for the eastern district of Pennsylvania. The court held it was without jurisdiction and dismissed the case. 21 F. (2d) 144. The Circuit Court of Appeals adopted its opinion and affirmed the decree. 21 F. (2d) 1018.

Petitioners maintain that the district court had jurisdiction under the first paragraph of § 24 of the Judicial Code, U. S. C. Tit. 28, § 41, which provides that the district courts shall have original jurisdiction "of all suits of a civil nature, at common law or in equity, brought by the United States, or by any officer thereof authorized by law to sue . . ."

Petitioners, other than South, are United States Senators and constitute a special committee created by Senate Resolution 195 passed May 19, 1926, to make investigation of means used to influence the nomination of candidates for the Senate. The Resolution empowered the committee "to require by subpoena or otherwise the attendance of witnesses, the production of books, papers, and documents, and to do such other acts as may be necessary in the matter of said investigation."

At a general election held in Pennsylvania November 2, 1926, William S. Vare and William B. Wilson were opposing candidates for the United States Senate. Vare was given the certificate of election and Wilson initiated a contest. Thereafter, January 11, 1927, the Senate passed Resolution 324. It recites that Wilson charges fraudulent and unlawful practices in connection with Vare's

nomination and the election and declares that, unless preserved for the use of the Senate, evidence relating to the election will be lost or destroyed. The Resolution empowers the special committee "to take . . and preserve all ballot boxes, . . ballots, return sheets, . . and other records, books and documents used in said senatorial election. . . ." It confers on the committee "all powers of procedure with respect to the subject matter of this resolution that said committee possesses under Resolution Numbered 195 . . with respect to the subject matter of that resolution." And it requires the Sergeant at Arms of the Senate to attend and execute the directions of the committee.

The Chairman of the Committee on Audit and Control of Contingent Expenditures having refused to approve the special committee's vouchers for expenses after the expiration of that Congress, the Sergeant at Arms refused to execute its orders. Thereupon the special committee directed the petitioner South, as its representative, to take possession of the boxes, ballots and other things referred to in Resolution 324.

Respondents are the commissioners, the prothonotary and a justice of the peace of Delaware County, Pennsylvania. They are authorized custodians of boxes, ballots and other things used in connection with the election. These were demanded by South in behalf of the committee. Respondents declined to give them up, and this suit was brought to obtain possession of them.

Petitioners do not claim that any Act of Congress authorizes the committee or its members, collectively or separately, to sue. Of course, South's authority is no greater than that of the committee which he represents. The suit cannot be maintained unless the committee or its members were authorized to sue by Resolutions 195 and 324, even if it be assumed that the Senate alone may give that authority. The power is not specifically granted by either resolution. Petitioners rely on the general language in Resolution 195 which follows the express authorization of the committee to use its own process to require the production of evidence. The words are "and to do such other acts as may be necessary in the matter of said investigation". The resolutions are to be construed having regard to the power possessed and customarily exerted by the Senate. It is the judge of the elections, returns and qualifications of its members. Art. I, § 5. It is fully empowered, and may de-

termine such matters without the aid of the House of Representatives or the Executive or Judicial Department. That power carries with it authority to take such steps as may be appropriate and necessary to secure information upon which to decide concerning elections. It has been customary for the Senate—and the House as well—to rely on its own power to compel attendance of witnesses and production of evidence in investigations made by it or through its committees. By means of its own process or that of its committee, the Senate is empowered to obtain evidence relating to the matters committed to it by the Constitution. *McGrain* v. *Daugherty*, 273 U. S. 135, 160, 161, 167, 174. And Congress has passed laws calculated to facilitate such investigations. R. S. § 101-104. U. S. C. Tit. 2, §§ 191-194. Petitioners have not called attention to any action of the Senate, and we know of none, that supports the construction for which they contend. In the absence of some definite indication of that purpose, the Senate may not reasonably be held to have intended to depart from its established usage. Authority to exert the powers of the Senate to compel production of evidence differs widely from authority to invoke judicial power for that purpose. The phrase "such other acts as may be necessary" may not be taken to include everything that under any circumstances might be covered by its words. The meaning of the general language employed is to be confined to acts belonging to the same general class as those specifically authorized. *Oates* v. *National Bank*, 100 U. S. 239, 244. *Barrett* v. *Van Pelt*, 268 U. S. 85, 90. *Baltimore & Ohio Railroad Co.* v. *United States*, — U. S. —. The context, the established practice of the Senate to rely on its own powers, and the attending circumstances oppose the construction for which petitioners contend and show that the Senate did not intend to authorize the committee, or anticipate that there might be need, to invoke the power of the Judicial Department. Petitioners are not "authorized by law to sue."

Decree affirmed.

A true copy.

Test:

Clerk, Supreme Court, U. S.